

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

EDUARDO GARCIA and JULIA GARCIA,)
Plaintiffs,) Case No. 1:20-cv-02402
v.)
WELLS FARGO BANK, N.A.,) Honorable Rebecca R. Pallmeyer
Defendant.) Honorable Heather K. McShain

JOINT STATUS REPORT

As directed by the Court, the Parties submit their Joint Status Report, as follows:

a. **Summary of Parties' Respective Activities in Discovery to Date.**

Plaintiffs' Position:

On June 3, 2022, the Court entered an order at D.E. 97 resolving Wells Fargo’s motions objecting to depositions at D.E. 85, 87, 89. Since that time, Plaintiffs’ counsel has been working diligently to schedule the necessary testimony from Wells Fargo.

To date, Wells Fargo has only scheduled testimony on topics 5 & 6 on June 28, 2022. Wells Fargo has not provided a witness or any availability for the remaining topics.

Wells Fargo's failure to cooperate in scheduling the remaining testimony jeopardizes the briefing schedule on Wells Fargo's Motion for Summary Judgment. If Wells Fargo's remaining testimony is not scheduled and completed in very short order, then the Garcias may have to request a modification of the briefing schedule.

Also, the Court's order noted that if testimony from Mr. Stumpf is necessary the Court may order a deposition by written questions. If the need to request further testimony from Mr. Stumpf arises, then the Plaintiffs will renew the request to take that testimony via Zoom. The Plaintiffs are concerned that any answers upon written questions will be filtered through Wells Fargo's counsel artificially rather than organically such as during live testimony.

Wells Fargo's counsel has stated they do not have control over Mr. Stumpf, nor do they control his availability. This statement by Wells Fargo's counsel is a tacit admission that Mr. Stumpf is not an Apex witness.

Wells Fargo has filed its dispositive motion.

Defendant's Position:

Wells Fargo continues to work diligently to ascertain and provide witnesses' availability for the remaining 30(b)(6) deposition topics and has done so cooperatively with Plaintiff's counsel. On June 23, 2022, defense counsel was informed that due to multiple professional and personal scheduling conflicts, the witness who is best suited to provide testimony on the balance of the remaining 30(b)(6) topics will be available for deposition beginning July 25, 2022. Therefore, Wells Fargo agrees that a modification to the briefing schedule may be necessary to provide Plaintiffs with adequate time to respond to Wells Fargo's Motion for Summary Judgment. Wells Fargo proposes that the Parties meet and confer to find a mutually agreeable date and time on or after July 25, 2022 for Plaintiffs' deposition on the remaining 30(b)(6) topics.

Wells Fargo vigorously objects to Plaintiffs' demand to take the deposition of apex witness Mr. Stumpf, who is the former CEO of Wells Fargo. Plaintiffs have not met the required showing to warrant Mr. Stumpf's testimony under the apex doctrine. At the hearing on Wells Fargo's motion for a protective order, the Court did not permit the deposition to move forward and held that request in abeyance, pending the 30(b)(6) depositions that are currently under way. Wells Fargo has made no admission, tacit or otherwise, that Mr. Stumpf is not an apex employee.

b. Pending and Unresolved Discovery Disputes.

Plaintiffs' Position: The matters set out in paragraph "a" above are the only matters remaining to be resolved. Plaintiffs' counsel hopes Wells Fargo's counsel will come forward promptly with witnesses and dates for the remaining 30(b)(6) testimony. Plaintiffs' counsel has repeatedly stated their willingness to conduct depositions even after hours or on weekends to provide more scheduling flexibility. To date, Wells Fargo has offered nothing on the remaining topics.

Wells Fargo's position will likely inform the Court as to whether the Court's involvement in this issue is necessary at this time.

Defendant's Position:

Wells Fargo will continue to work cooperatively with Plaintiffs' counsel to find a suitable date and time for the remaining 30(b)(6) testimony. As stated above, in paragraph (a), Wells Fargo's witness will become available beginning July 25, 2022. Wells Fargo proposes that the Parties' meet and confer to ascertain an appropriate date for Plaintiffs to depose Wells Fargo's witness on the remaining 30(b)(6) topics and to propose and alternate briefing schedule to allow Plaintiffs sufficient time to respond to Wells Fargo's Motion for Summary Judgment.

c. Likelihood of Settlement.

Plaintiffs' Position: The Plaintiffs' final offer of settlement was rejected. The likelihood of settlement is zero.

Defendant's Position:

Wells Fargo disputes Plaintiffs' contention that the likelihood of settlement is zero. Wells Fargo has until November 21, 2022 to serve an Offer of Judgment on Plaintiffs.

d. Other Issues.

Plaintiffs' Position: Plaintiffs are not aware of any other outstanding issues but reserve all rights should new issues arise.

Defendant's Position: Defendant is not aware of any other outstanding issues but reserves all rights should new issues arise.

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Dated: June 23, 2022

Respectfully submitted,

/s/ Nick Wooten

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